

REMARKS

Claims 35-55 are presented in the present application. No claims have been allowed. Claim 42 has been amended. This amendment does not include any new subject matter and support can be found, among other places, at column 8, lines 1-18, of U.S. Patent No. 5,813,191. Applicant respectfully requests admission of amended claim 42.

Claims 35-55 have been rejected as being based upon a defective declaration under 35 U.S.C. 251. In particular, Examiner states in paragraph 1 of the Office Action that the reissue declaration lacks a statement that the inventor is the sole inventor and a detailed description of the actual error.

Enclosed with this communication is a Supplemental Reissue Declaration Under 37 CFR 1.175 signed by the inventor, Raymond G. Gallagher, in which the inventor states (a) that he believes himself to be the original and sole inventor of the invention and (b) that at least one error being relied upon as the basis for reissue is that the embodiment of the invention, wherein portions of the bead on the inner surface of the frame are positioned between the inner surface of the base and the end portions of the members as recited in column 8, lines 1-18, of U.S. Patent No. 5,813,191, was not claimed. This Supplemental Reissue Declaration should overcome the defects identified by the Examiner.

Examiner further states in paragraph 2 of the Office Action that the instant reissue application was filed without the required offer to surrender the original patent. Applicant respectfully directs Examiner's attention to the document entitled "Assent of Assignee to Reissue" dated September 20, 1999, which states "PPG Industries Ohio, Inc., assignee of the instant application, will surrender the original patent after Notice of Allowance of the instant application has been received." Based on the above, the original patent will be surrendered to the patent office upon receipt of Notice of Allowance.

Claim 42 has been amended to correct an obvious oversight in the claim. More particularly, claim 42 has been amended to recite a spacer frame with bead on the supporting surface of the

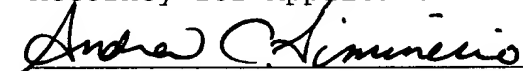
base of the frame, with portions of the bead between the supporting surface of the base and the end portions of the second legs of the first and second members. Upon examination of claim 35 and the figures, the need for this amendment to claim 42 is apparent. Applicant respectfully requests consideration and allowance of amended claim 42.

This communication and amendment represents a sincere effort to fully respond to the Office Action. Applicant believes the present case is now in condition for allowance of all claims and such action is respectfully requested. If there are any additional issues to be resolved, Examiner is invited to contact Applicant's attorney at the telephone number provided below.

Attached hereto is a marked-up version of the amendment to the claim made by the instant amendment. The attached page is captioned "Version with markings to show changes made".

Respectfully submitted,

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VERSION WITH MARKINGS TO SHOW CHANGES MADE

IN THE CLAIMS

Claim 42 has been amended as follows:

42. (amended) A spacer frame to space sheets of an insulating unit comprising:

an elongated base having a supporting surface;

an elongated first leg having a first elongated member joined to the elongated base and a second elongated member joined to the first elongated member of the first leg and having an end portion positioned over the supporting surface of the base;

an elongated second leg having a first member joined to the elongated base and a second elongated member joined to the first elongated member of the second leg and having an end portion positioned over the supporting surface of the base, the first member of the first leg and the first member of the second leg and the base joined together to have a U-shaped cross section; and

a bead on the supporting surface of the base with portions of the ~~base~~ bead between the supporting surface of the base and the end portion of the second legs of the first and second members.